

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

KIM THOMAS and)	
IAN SEAFORD)	
)	
Plaintiffs,)	Case No. 2:24-cv-10130
)	Hon.
vs.)	
)	
STATE AUTO PROPERTY AND)	Removed from Genesee
CASUALTY INSURANCE COMPANY,)	County Circuit Court
)	Case No. 23-118757-CK
Defendant.)	
)	

NOTICE OF REMOVAL OF STATE COURT CIVIL ACTION

TO: United States District Court
Judges of the Eastern District of Michigan, Southern Division

Defendant State Auto Property and Casualty Insurance Company ("State
Auto"), by and through undersigned counsel, pursuant to 28 U.S.C. §§ 1332,
1441 and 1446, hereby files this Notice of Removal to remove the above-
captioned civil action to this Court, and states:

1. As detailed below, Plaintiffs Kim Thomas and Ian Seaford's("Plaintiffs") "Initial Disclosures Pursuant to MCR 2.302" served on December 18, 2023, in the State Court Action, Genesee County Circuit Court, Case No. 23-118757-CK, establishes that this Court has subject matter

jurisdiction over this action and dispute under 28 U.S.C. § 1332. Removal is therefore proper.

2. On April 5, 2023, Plaintiffs, Kim Thomas and Ian Seaford, filed an action against State Auto in the Circuit Court for the County of Genesee, State of Michigan, assigned Case No. 23-118757-CK ("State Court Action").

3. On June 19, 2023, State Auto was served with the Summons and Complaint through its resident agent, CSC.

4. At the time the Complaint was filed, and at all times subsequent thereto, Plaintiffs Kim Thomas and Ian Seaford were and are citizens of the State of Michigan and residents of Genesee County, Michigan.

5. At the time the Complaint was filed, and at all times subsequent thereto, Defendant State Auto was and is a citizen of the State of Ohio as it is an Ohio corporation with its principal place of business in Ohio.

6. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon State Auto in the State Court Action are attached hereto as **Exhibit A**.

7. Defendant State Auto issued Homeowners Policy No. 1000884013, effective 07/09/2020 to 07/09/2021, to Plaintiff and Named Insured Kim Thomas with the Insured Location identified as "5346 N Oak Rd, Davison, MI 48423" ("Insured Location") with Section I Property Coverage as follows: A.

Dwelling Limit of \$279,200; B. Other Structures \$27,920; C. Personal Property Limit of \$195,440; and D. Loss of Use Limit of \$83,760, subject to all of its limits of liability, agreements, provisions, terms, exclusions, conditions, definitions, and endorsements (“State Auto Policy”).

8. As alleged in Plaintiffs’ Complaint filed in the State Court Action, on or about February 23, 2021, Plaintiff noted physical changes to the Insured Location and allege that they “sustained insured losses at the Property.” (Complaint at ¶8).

9. Plaintiffs allege in their Complaint that Defendant State Auto “failed to pay Plaintiffs’ claim in the amounts Plaintiffs are entitled to, as provided in the contract of insurance” and that State Auto’s “failure to timely and fully pay Plaintiffs’ claim is a breach of its obligations under the contract of insurance and Michigan law.” (Complaint at ¶¶13-14).

10. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b)(3) as it is filed within thirty (30) days of December 18, 2023 when State Auto received information and “other paper” in the form of “Plaintiffs’ Initial Disclosures Pursuant to MCR 2.302” in the State Court Action from which it was first able to ascertain that this action is removable to this Court.

11. Specifically, on December 18, 2023, pursuant to Michigan Court Rule 2.302(A), Plaintiffs served their Initial Disclosures (**Exhibit B**).¹ Specifically, as required by MCR 3.202(A)(1)(f) (“computation of each category of damages claimed by the disclosing party”), Plaintiffs’ claim their “dwelling-related damages are in excess of \$170,000” and their “additional living expenses are in excess of \$67,000.”

12. In support of Plaintiffs’ claimed damages in their Initial Disclosures, Plaintiffs refer to a “Statement of Loss” dated December 14, 2023, which asserts Dwelling damages of \$174,028.21 at RCV (Replacement Costs Value) and \$159,288.63 at ACV (Actual Cash Value) and ALE (Additional Living Expenses)/Loss of Use of \$67,782.29. (Statement of Loss (12-14-2023) as **Exhibit C**).

13. Defendant State Auto disagrees with and disputes Plaintiffs’ allegations and claims set forth in Plaintiffs’ Complaint, including specifically Plaintiffs’ assertion that they have suffered losses and damages in the amounts set forth in their Initial Disclosures and Statement of Loss (12-14-2023).

¹ Plaintiffs’ Initial Disclosures are signed by their counsel as required by MCR 2.302(G)(3)(a)(i) certifying that counsel read the disclosures and that to the best of counsel’s knowledge, information and belief formed after reasonable inquiry, the disclosures are “complete and correct” as of the time made and served.

14. However, pursuant to 28 U.S.C. § 1332, this Court has original jurisdiction over this action because it involves a controversy between citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

15. Therefore, removal is proper in accordance with 28 U.S.C. § 1441(a) and (b) and 28 U.S.C. § 1446(a) and (b)(3).

16. Concurrently with the filing of this Notice of Removal, by means of the Notice of Filing Notice of Removal filed in the State Court Action and attached hereto as **Exhibit D**, Defendant State Auto is providing notice to Plaintiffs and to the Genesee County Clerk of Court of this (a) Notice of Removal; (b) the fact that this action is to be docketed in this Court; and (c) that this Court shall hereafter be entitled to grant all relief to Defendant State Auto as is proper under the circumstances.

17. Defendant State Auto reserves the right to supplement this Notice of Removal if it becomes necessary to do so.

WHEREFORE, Defendant State Auto requests that this action, currently pending in the Circuit Court for the County of Genesee, State of Michigan, under Case No. 22-001237-NZ, be removed therefrom and proceed in this Court as a removed civil action under 28 U.S.C. §§ 1441 and 1446.

Respectfully submitted,

s/Stephen P. Brown

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Dated: January 17, 2024

CERTIFICATE OF SERVICE

I do hereby certify that on the 17th day of January 2024, I filed the foregoing document with the Clerk of the Court using their electronic court filing system, and via UPS overnight mail and email to:

MELAMED, LEVITT, MILANOWSKI, &
EARLS, P.C.

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